

Appl. No.: 10/019,563

Amendment dated June 8, 2005

Responsive to Office Action of February 8, 2005

REMARKS

In response to the Office Action mailed February 8, 2005, Applicant respectfully requests the Examiner to reconsider the above-captioned application. By way of this Amendment, Applicant has canceled claims 24, 28, 29, 33, 37, 38 and 41 and has amended claims 11-13, 15, 16, 19-21, 23, 31, 32, 39, 40, 42, 43, 45-51, 63 and 64 to further clarify preferred features. Applicant also notes that claims 1-10, 14 and 22 have been previously canceled. Accordingly, claims 11-13, 15-21, 23, 25-27, 30-32, 34-36, 39, 40, and 42-64 are now pending in the present application.

10 Objection to Amended Specification under 35 USC §132

The Examiner asserts that the amendments filed 5/26/04 and 1/18/05 introduce new matter into the disclosure. In particular, the Examiner has objected to the introduction of the following language: "...the wires 26, 27 are secured to the stents and the ends of the wires have been severed and removed." The Examiner has requested that Applicant cancels this language and re-instates the original disclosure (with the exception of corrected spelling/grammatical errors).

Although Applicant believes that the added material is not new subject matter because it is shown in Figure 13, in order to expedite allowance of the pending claims, Applicant has amended the specification as requested by the Examiner. Because the added material has been canceled, Applicant respectfully requests that the Examiner withdraw the objection under 35 USC §132.

Rejection of Claims 11-13, 15-19, 21, 28-29, 31-41, 45-48 and 51-64 under 35 USC. §112

The Examiner rejects claims 11-13, 15-19, 21, 28-29, 31-41, 45-48 and 51-64 under 35 USC. §112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The

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Examiner further asserts that the Applicant has claimed subject matter that is not mentioned or supported by the specification.

In response to the rejections under 35 USC §112, Applicant has amended the claims to remove the subject matter noted by the Examiner and to recite features that are more clearly supported by the specification. In addition to the claim amendments, Applicant has canceled claims 24 and 33 ("an included angle of at least 180 degrees"), claims 28 and 37 ("a plurality of teeth"), claims 29 and 38 ("material mesh") and claim 41 ("a coupling mechanism"). Applicant believes that all the pending claims clearly recite the invention as disclosed and thereby comply with the written description requirement. Accordingly, Applicant respectfully requests that the Examiner withdraw all claim rejections under 35 USC §112.

Rejection of Claims 23-25, 30, 31 and 48 under 35 USC §102(b)

The Examiner rejects claims 23-25, 30, 31 and 48 under 35 USC §102(b) as being anticipated by Mehra (U.S. Patent No. 5,170,802). More particularly, the Examiner asserts that Mehra discloses a device for effecting the condition of a mitral valve annulus of a heart with a resilient member (14) having a cross-sectional dimension capable of being received within the coronary sinus (12) of the heart and having a longitudinal dimension having an arched configuration for partially encircling the mitral valve and for constricting the mitral valve.

Mehra discloses an expandable electrode that may be deployed within a coronary sinus. A balloon catheter is used to expand the electrode within the coronary sinus to urge the electrode into contact with the inner wall of the blood vessel. The electrode forms a hollow cylindrical structure that allows blood to flow through the coronary sinus while providing a ventricular fibrillation electrode.

In contrast to Mehra, embodiments of the present invention disclose a device for treating mitral valve annulus dilatation. To further clarify preferred features of the present invention and more clearly distinguish over Mehra, Applicant has amended independent claim 23 to recite "a resilient member having a cross sectional dimension for being received within the coronary sinus of the heart and having a longitudinal dimension for partially encircling the mitral valve, wherein

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the resilient member shortens along the longitudinal axis for exerting an inward pressure on the mitral valve when within the coronary sinus adjacent the mitral valve for constricting the mitral valve annulus.” Mehra neither teaches nor suggests anything about a resilient member that bends and shortens within the coronary sinus for constricting a mitral valve annulus. Dependent claim 5 24 has been canceled. Dependent claims 25 and 30 recite additional features that further distinguish over Mehra.

With respect to claim 31, Applicant has amended the claim language to recite “a generally U-shaped member formed of resilient material and configured to assume a reduced radius of curvature after delivery into the coronary sinus for exerting a substantially radially inward force on the mitral valve annulus.” Mehra neither teaches nor suggests a U-shaped member configured to assume a reduced radius of curvature after delivery into the coronary sinus. Rather, Mehra discloses a substantially straight member that merely conforms to the shape of the coronary sinus for providing an implantable defibrillator.

Finally, with respect to claim 48, Applicant has amended the claim language to recite “an elongate body formed of a shape memory material and configured for insertion into a coronary sinus for exerting a compressive force on the mitral valve annulus when placed adjacent to the mitral valve.” Mehra neither teaches nor suggests an elongate body formed of a shape memory material and configured for insertion into a coronary sinus for exerting a compressive force on the mitral valve annulus.

Therefore, Mehra does not teach or suggest the unique combination of features recited by Applicant’s amended independent claims 23, 31 and 48. Furthermore, Mehra does not teach or suggest the unique combination of features of dependent claims 25 and 30. Therefore, Applicants respectfully request that the rejections of claims 23-25, 30, 31 and 48 under 35 USC §102(b) be withdrawn.

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